

(1) [Reserved]

(2) Testing of a reasonable number of exhaust systems (i) for purposes of selective enforcement auditing under § 205.171, or (ii) if the manufacturer has failed to establish that there is a correlation between its test facility and the EPA test facility, or (iii) the Administrator has reason to believe, and provides the manufacturer with a statement of such reason, that the exhaust systems to be tested would fail to meet the standard prescribed in this subpart if tested at the EPA test facility, even though they would meet such standard if tested at the manufacturer's test facility;

(3) Any testing performed during a period when a notice of non-conformance of the manufacturer's test facility issued pursuant to paragraph (b) of this section is in effect;

(4) Any testing performed at a place other than the manufacturer's facility as a result of the manufacturer's failure to permit the Administrator to conduct or monitor testing as required by this subpart; and

(5) In addition to any exhaust systems included in paragraphs (c) (2), (3), or (4) of this section, testing of up to 10 percent of the manufacturer's exhaust systems for a model year if the Administrator determines testing these exhaust systems at the EPA test site is necessary to assure that a manufacturer has acted or is acting in compliance with the Act.

(Secs. 11 and 13 of the Noise Control Act (42 U.S.C. 4910, 4912); 42 U.S.C. 4905; 86 Stat. 1237 and secs. 6, 10, 11, 13, Pub. L. 92-574, 86 Stat. 1234 (42 U.S.C. 4905, 4909, 4910, 4912))

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§ 205.171 Selective enforcement auditing (SEA) requirements.

§ 205.171-1 Test request.

(a) The Administrator will request all testing under § 205.171 by means of a test request addressed to the manufacturer.

(b) The test request will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered to the plant

manager or other responsible official as designated by the manufacturer.

(c) The test request will specify the exhaust system category, model and model year of motorcycle selected for testing, the manufacturer's plant or storage facility from which the exhaust systems must be selected, the method of selection and the time at which the exhaust systems must be selected. The test request will also provide for situations in which the selected exhaust system is unavailable for testing. The test request may include an alternative exhaust system category designated for testing in the event that exhaust systems of the first specified category are not available for testing because the exhaust systems are not being manufactured at the specified plant or are not being manufactured during the specified time or are not being stored at the specified plant or storage facility.

(d)(1) If the manufacturer projects a yearly production of fewer than 50 exhaust systems of the specified category to be tested, then, within five (5) days of receipt of the request, the manufacturer must notify the Administrator of such low volume production. The Administrator will then provide a revised test request specifying a testing plan which imposes no greater risk of failure (5%) at the acceptable quality level (10%) than the plan in appendix II. Upon receipt of the revised test request, the manufacturer must select and test a sample of exhaust systems from the category specified in the test request in accordance with this subpart and the conditions specified in the test request.

(2) If the manufacturer produces 50 or more of the specified category, then, upon receipt of the test request, the manufacturer must select and test a sample of exhaust systems for the category specified in the test request in accordance with this subpart and the conditions specified in the test request.

(e)(1) Any testing conducted by the manufacturer under a test request must be initiated within the time period specified in the test request; except that initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions, or other conditions beyond